

TEXT OF FINAL REGULATIONS

Proposed additions are indicated by underline.
Proposed deletions are indicated by ~~strikeout~~.

TITLE 3. CALIFORNIA CODE OF REGULATIONS DIVISION 6. PESTICIDES AND PEST CONTROL OPERATIONS CHAPTER 2. PESTICIDES SUBCHAPTER 3. ASSESSMENTS ARTICLE 2. MILL ASSESSMENT DISBURSEMENT CRITERIA

Amend section 6391 to read:

6391. County Reimbursement.

~~(a) Reimbursement for work specified in section 6393(b) shall be made by April 1 of each year pursuant to section 12841 of the Food and Agricultural Code.~~

~~(b) Reimbursement for work specified in section 6393(c) shall be disbursed to the counties by June 30, 1999, for the work performed in 1998/99.~~

~~(c) Notwithstanding the provisions of subsections (a) and (b), effective with the mill assessment funds available for allocation on March 1, 2001, (a) r~~Reimbursement for work specified in section 6393~~(d)(2)~~ (b) shall be made by April 1 of each year pursuant to section 12841 of the Food and Agricultural Code.

~~(d)~~ (b) Reimbursement shall not exceed costs incurred by the county as shown in the County Agricultural Commissioners' Annual Financial Statement, Item 5, entitled "Pesticide Use Enforcement."

NOTE: Authority Cited: Sections 11456, 12781 and 12844, Food and Agricultural Code.
Reference: Sections 12841 and 12844, Food and Agricultural Code.

Amend section 6393 to read:

6393. Criteria Items and Apportionment.

~~(a) The amount of funds allocated to each county shall be based on each county's total costs and total workload in proportion to the total costs and total workload of all counties, except as provided in sections 6391(d), 6393(c), and 6395.~~

~~(b) The apportionment for each criteria item shall be a percentage of the total mill assessment funds available for reimbursement to counties [less the amount specified in section 6395(b).] Such criteria items and corresponding apportionments are as follows:~~

~~(1) Pest control evaluations, which include all application site evaluations and use inspections: apportionment, 12 percent;~~

~~(2) The number of agricultural pest control advisers registered in the county: apportionment, 2 percent;~~

~~(3) The number of licensed pesticide dealers, including licensed branch locations in the county: apportionment, 1 percent;~~

~~(4) The number of agricultural pest control operators registered and structural pest control operators providing notice of work in the county: apportionment, 2 percent;~~

~~(5) The number of pest control aircraft pilots registered in the county: apportionment, 1 percent;~~

~~(6) Work hours expended, which include work hours expended or supervised by certified pesticide use enforcement personnel: apportionment, 33 percent;~~

~~(7) Costs, which include only direct costs incurred through the level of the county agricultural commissioner, including staff, for the administration and operation of the county's pesticide regulatory activities excluding pest control or eradication programs conducted by the county or under the supervision of the agricultural commissioner: apportionment, 33 percent;~~

~~(8) The number of private applicators certified by the county: apportionment, 3 percent;~~

~~(9) The total pounds of pesticides reported as used in the county: apportionment, 2 percent;~~

~~(10) The total pounds of restricted materials reported as used in the county: apportionment, 3 percent;~~

~~(11) Reported applications, which include all pesticide applications required to be reported: apportionment, 1 percent;~~

~~(12) Permit requests considered, which include all restricted material permits issued or denied: apportionment, 4 percent;~~

~~(13) Pesticide investigations, which include all pesticide episode investigation reports: apportionment, 3 percent;~~

~~(c) Notwithstanding the provisions of subsection (b), the amount of funds reimbursed to each county for additional work related to the expansion of pesticide use reporting requirements for all agricultural uses shall be based on the following criteria: the issuance of operator identification numbers pursuant to section 6622; the review and filing of pesticide use reports; and the inspection and audit of pesticide use records. The total amount of funds available for reimbursement under this subsection will be \$1.294 million.~~

~~(d) Notwithstanding the provisions of subsections (a), (b), and (c), effective with the mill assessment funds available for allocation on March 1, 2001:~~

~~(1) (a) The amount of funds allocated to each county for each criteria item shall be based on each county's costs or workload in proportion to the costs or workload of all counties, except as provided in sections 6391(d) (b) and 6395.~~

~~(2) (b) The apportionment for each criteria item shall be a percentage of the total mill assessment funds available for reimbursement to counties [less the amount specified in section 6395(b)]. Such criteria items and corresponding apportionments are as follows:~~

~~(A) (1) Apportionment, 15 percent: The total number of Pesticide Use Enforcement Program inspections completed in accordance with the prioritization plan agreed upon by the Director and the commissioners and the commissioners' negotiated work plans;~~

~~(B) (2) Apportionment, 3 percent: The total number of: licensed pest control dealers located in each county; licensed agricultural pest control advisers, pest control businesses, pest control aircraft pilots, and farm labor contractors registered in each county; structural pest control operators providing notice of work in each county; active operator identification numbers in each county; and any additional similar workload activities approved jointly by the Director and the commissioners;~~

~~(C)~~ (3) Apportionment, 3 percent: The total number of private applicator certificate holders certified in each county;

~~(D)~~ (4) Apportionment, 30 percent: Work hours expended on pesticide-related activities that are agreed upon by the Director and the commissioners, provided the work hours are expended by persons holding a Pesticide Regulation and/or Investigation and Environmental Monitoring license or by unlicensed persons qualified to apply for a Pesticide Regulation and/or Investigation and Environmental Monitoring license who are closely supervised by persons holding a Pesticide Regulation and/or Investigation and Environmental Monitoring license;

~~(E)~~ (5) Apportionment, 28 percent: Expenditures reported by each county for pesticide-related activities that are agreed upon by the Director and the commissioners;

~~(F)~~ (6) Apportionment, 2 percent: The total pounds of pesticides used in the county that have been reported pursuant to Food and Agricultural Code section 12979;

~~(G)~~ (7) Apportionment, 4 percent: The total number of pesticide use report data records submitted by the county;

~~(H)~~ (8) Apportionment, 7 percent: The total number of restricted materials permits and permit amendments issued by each county; sites identified on all restricted materials permits and permit amendments issued by each county; and Notices of Intent reviewed by each county;

~~(I)~~ (9) Apportionment, 3 percent: The total number of pesticide investigation reports completed in accordance with the prioritization plan agreed upon by the Director and commissioners and commissioners' negotiated work plans;

~~(J)~~ (10) Apportionment, 2 percent: The total number of noncompliances documented during Pesticide Use Enforcement Program inspections; and

~~(K)~~ (11) Apportionment, 3 percent: Focused pesticide activities completed in accordance with the prioritization plan agreed upon by the Director and commissioners and the commissioners' negotiated work plans.

NOTE: Authority Cited: Sections 11456, 12781, and 12844, Food and Agricultural Code.
Reference: Sections 12841 and 12844, Food and Agricultural Code.

Amend section 6394 to read:

6394. Effectiveness Evaluation

(a) ~~The effectiveness of the pesticide regulatory program of each county shall be evaluated by the department for the criteria items specified in paragraphs (1) through (5), (8), (12), and (13) of section 6393(b) for mill assessment available for allocation on March 1, 2000. In subsequent years, the effectiveness of the pesticide regulatory program of each county shall be evaluated by the department for the criteria items specified for (2)(A) through (2)(C), (2)(H), and (2)(I) of section 6393(d).~~ The director shall annually evaluate the pesticide use enforcement program in each county. The evaluations shall be in accordance with the essential program element guidelines recognized by the director.

(b) ~~Effectiveness evaluations shall be relative to the overall level of compliance observed by the department and shall also be based on comprehensiveness of inspections, detection of noncompliance items, and corrective action initiated by the county.~~

~~If at any time any deficiency is detected in the county's pesticide regulatory program, significant enough that if uncorrected, it would result in a negative influence in the effectiveness ratings, the director shall, without delay, notify the commissioner in writing describing such deficiency.~~

~~The effectiveness rating for each criteria item shall be discussed with the commissioner prior to preparing the final report at the end of the fiscal year.~~

The director shall provide a report to each commissioner that documents the evaluation results, assesses the effectiveness of the county's pesticide use enforcement program, and identifies corrective actions. The report shall identify the program areas that meet, exceed, or do not meet the essential program element guidelines recognized by the director. For program areas that do not meet these guidelines, the commissioner and the director shall jointly develop corrective actions to address deficient program areas.

~~The commissioner may appeal to successively higher levels of management within the department, if necessary, the director to resolve an issue conflicts concerning the effectiveness ratings evaluation results and the effectiveness assessment. The evaluation report will become final when conflicts are resolved and corrective actions, if needed, are identified.~~

~~(c) The effectiveness rating shall be a value ranging from a low of 0.0 for nonperformance or no effectiveness, to a high of 1.0 for adequate performance or minimum acceptable level of effectiveness. Each criteria item shall be multiplied by the effectiveness rating for that aspect of the pesticide regulatory program. When any program fails to implement the jointly developed corrective actions included in the evaluation report, the Director shall take measures to improve the effectiveness of the county's pesticide use enforcement program. The measures may include but are not limited to, a reduction not to exceed 25 percent in the county's annual mill assessment allocation for the essential program elements recognized by the Director.~~

NOTE: Authority cited: Sections 11456, 12781 and 12844, Food and Agricultural Code.

Reference: Sections 2281 and 12844, Food and Agricultural Code.

Amend section 6395 to read:

6395. Minimum Reimbursement.

(a) Determinations as specified in sections 6393 and 6394(c), notwithstanding, but subject to section 6391 ~~(d)~~ (b), no county shall be reimbursed funds less than the amount of funds reimbursed to the county pursuant to ~~§~~section 12844 of the Food and Agricultural Code, for the fiscal year ending June 30, 1979, unless the mill assessment funds available for allocation on March 1 of the current year are less than those funds available on March 1, 1980, in which case each county's reimbursement shall be reduced in the same proportion as it would have been reimbursed under this article.

(b) From the total funds available for allocation to counties, five percent shall be utilized for the stipulation of subsection (a) above.

NOTE: Authority cited: 11456, 12781, and 12844, Food and Agricultural Code.

Reference: Section 12844, Food and Agricultural Code.